

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LOUIS C. FRAISER	:	CIVIL ACTION
	:	
v.	:	
	:	
JO ANNE B. BARNHART	:	NO. 05-3810

ORDER

AND NOW, this 7th day of February, 2006, upon consideration of plaintiff's motion for summary judgment (docket entry # 6), defendant's motion for summary judgment (docket entry # 7), the January 4, 2006 Report and Recommendation of the Honorable Jacob P. Hart (docket entry # 10), and defendant's failure to object within ten days of service of the Report and Recommendation, as required by 28 U.S.C. § 636(b)(1) and the accompanying January 4, 2006 Clerk's letter sent to counsel, and the Court, in any event, agreeing with Judge Hart's cogent analysis,<sup>1</sup> it is hereby ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED;
2. Defendant's motion for summary judgment is DENIED;
3. Plaintiff's motion for summary judgment is GRANTED IN PART and DENIED IN PART, and this matter is REMANDED to the Commissioner for consideration of the testimony of Tammy Frasier and for a reassessment of plaintiff's mental status in light of that testimony; and

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1. Judge Hart recommended that we should remand this matter to enable the Commissioner to consider the testimony of plaintiff's wife and, in light of that testimony, to reevaluate plaintiff's mental condition.

4. The Clerk shall CLOSE this matter statistically.

BY THE COURT:

/s/ Stewart Dalzell, J.